SPEECH

OF

MR. J. R. UNDERWOOD,

UPON THE

RESOLUTION PROPOSING TO CENSURE JOHN QUINCY ADAMS

FOR

PRESENTING TO THE HOUSE OF REPRESENTATIVES A PETITION

PRAYING FOR THE

DISSOLUTION OF THE UNION.

Delivered in the House of Representatives, on the 27th of January, 1842.

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SPEECH.

I was born (said Mr. UNDERWOOD) among slaveholders, was educated by one, have lived all my life in their midst, and have been honored by them with many important offices—I am myself a slaveholder. I therefore fall completely within the exception taken by the gentleman from Massachusetts (Mr. ADAMS) to all those situated as I am. I do not admit the validity of his challenge. So far as it respects myself, I shall overrule his objection, and sit as one of his judges. I perceive no reasons which incapacitate the representatives of the slave-holding States from judging, impartially, all questions of contempt or of privilege which may arise; and I apprehend that the gentleman's exception and challenge to nearly one-half of his constitutional triers may have some influence (although it ought not, and I hope will not) in creating feelings of asperity towards the accused.

I have, from the commencement of this business, protested against its introduction. I have some experience, in relation to proceedings of this kind, in this House. I once saw a man brought to our bar, to be tried for a contempt in refusing to answer questions before a committee. The trial proceeded day after day. The accused (Whitney) was defended by able counsel. In the progress of the trial we lost sight of the real culprit, and converted the procedure into a censorious investigation of the conduct of the members of this House. After many days of intense excitement, the House became satisfied that all efforts to punish the accused would prove ineffectual; and Whitney was dismissed, after we (I do not wish or intend to use harsh terms) had rendered ourselves, in public opinion, not very estimable for our proceedings.

I have seen various attempts made to punish members for assaults and batteries committed in the presence of this body, interrupting its sittings, and bringing disgrace upon the country and its institutions. I have witnessed, in these ineffectual efforts to inflict punishment, much angry feeling—the pouring out of abusive epithets, and the waste of much time, which should have been otherwise employed.

I witnessed a proceeding, very analogous to the present, against the same gentleman. An attempt was made to censure him, because he asked the Speaker whether petitions from free negroes or slaves could be received under the rules of the House; and intimated, if they could, that he had one to offer. After the gentleman had effectually "used up" his assailants—after their missiles had rebounded from the mighty shield of the ex-President, and inflicted ghastly wounds on those who sent them—when there was no charge left, upon which to base a censure, except that he had given "color to an idea," we got clear of the whole affair, in the best way we could, by laying it on the table, never to be taken up again. It happened that the petition referred to asked for the expulsion of the gentleman from Massachusetts!

I have known those engaged in duels to be arraigned, first, before a committee, and then before the House, upon a preamble and resolutions proposing expulsion and censure as suitable punishments. The action of this House on the report of the committee upon the case of Mr. GRAVES, commenced on the 21st day of April, and continued, almost without intermission, until the 10th day of May, when the whole subject, without coming to any conclusion, was laid on the table. In the mean time, scenes of vituperation and disorder, similar to those we have witnessed during the last three days, were constantly occurring, and suffusing the cheek of the patriot with the blush of shame or indignation.

With these facts fresh in my recollection, I deemed it a duty to object to the introduction of the original resolution of the gentleman from Virginia (Mr. GILMER) as soon as it was moved. I have been overruled. Those who introduced the subject are answerable for its consequences.

The gentleman from Massachusetts, after I had obtained the floor, rose to a privileged question—if not a question of privilege—and made a point of order upon the consideration of the amendment offered by my colleague. The point of order turned, in the argument, upon the jurisdiction and authority of this House to punish the member from Massachusetts for the high crimes or base motives imputed to and charged against him. But the question was so presented by the record, that it became one, in the opinion of many members, of mere expediency, as to the *time* when my colleague's resolutions should be considered, instead of a question involving the jurisdiction and powers of this House. The vote, therefore, which overruled the point of order, has not decided the question of jurisdiction or power. The whole case is now before us upon its merits, disencumbered from all

technicality and special pleading; and we must, necessarily, decide upon the extent of our powers, the innocence or criminality of the accused, and the nature and extent of the punishment.

My colleague's preamble, in substance, affirms that a proposition to dissolve the Union "is a high breach of privilege, and a contempt offered to this House."

Now, sir, I propose to examine the truth of these positions.

Fortunately for me, my views and opinions have been heretofore expressed, in a speech delivered in this Hall, when Mr. GRAVES and the gentleman from Virginia (Mr. WISE) were proceeded against for the parts they acted in the fatal duel. I shall now do little more than repeat the main grounds of the argument, leaving members to examine the entire reasoning then advanced, by looking into the Journal of Debates, if it be their pleasure to take so much trouble.

By the Constitution, members of Congress are secured in certain privileges. By a well settled rule of interpretation, the enumeration of certain rights in any instrument, excludes those not expressed; and, therefore, nothing can be claimed as a constitutional privilege which is not expressly inserted. These are the words of the Constitution: "They (members of Congress) shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to or returning from the same; and for any speech or debate, in either House, they shall not be questioned in any other place." Exemption from arrest and irresponsibility for any speech or debate, in either House, except to the House which may be offended thereby, are the two privileges expressed. Why did those who framed the Constitution omit to provide in that instrument for other cases of privilege, known to the law of Parliament, as acted on and enforced by the Houses of Lords and of Commons in England? Were the sages who framed our Constitution ignorant of the almost unbounded claims of the members of Parliament "to privilege?" No, sir; they understood the subject well, and with a full knowledge of the extravagant pretensions of the members of the British Legislature, the patriots of the Revolution secured, in the Constitution, but two privileges to members of Congress. It has, therefore, always appeared very clear, to my judgment, that the extension of the doctrine of "privilege," beyond the letter of the Constitution, is a palpable violation of that instrument. Hence, wherever it has been proposed to punish a member for an assault or battery, or murder, upon the ground of "breach of privilege," I have invariably denounced the procedure. I admit that disorderly conduct, on the part of members disturbing the deliberations of the House or its committees, or in any manner obstructing the business of legislation, is punishable.

There is an express warrant in the Constitution for punishing such conduct; for it is provided in the fourth section of the first article, that "each House may determine the rule of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member." To proceed against a member for "disorderly behavior," is one thing—to charge him with a breach of privilege, or a "*high* breach of privilege," is another thing, totally different. I doubt whether either House can, constitutionally, erect itself into a judicial tribunal—assume cognizance of cases where the admitted privileges of its members have been violated—pronounce sentence against the offender, and then put it in execution, through the instrumentality of the Sergeant-at-Arms. Suppose I am arrested for debt, after the adjournment of Congress, on my way home; or suppose I am held to bail in an action of slander, founded upon words spoken in debate upon this floor, and incarcerated for failing to give it; can the House of Representatives, at its next session, assume jurisdiction, and undertake to punish those who may have violated my privileges, or am I left to resort to the judicial tribunals for redress? But for certain precedents, I should not hesitate to decide that the only remedy, in such cases, must be applied by the judiciary. If the House, whose member is imprisoned in violation of the Constitution, is not in session at the time, then, if judicial remedy be discarded, the member must remain in jail until the next meeting of Congress. When Congress convenes, can either House issue its writ of habeas corpus with a view to his release? Can either House issue its "capias" against the offender, the breaker of privilege, and bring him up to answer, *criminally*, for his offence, or *civilly*, to the aggrieved member? Can the House of Representatives, in such cases, punish by censure, fine, imprisonment, or *hanging*, the man who violates the privileges of a member? Can either House treat the subject as a civil suit, and render a judgment for damages to compensate the injury? If either House has criminal jurisdiction, and may, constitutionally, inflict punishment, has it not civil jurisdiction likewise, and may it not settle the entire controversy between the parties? I put these questions, and require answers. Those who attempt to answer will, I apprehend, find much difficulty in placing the power of this House upon such foundations as to justify its exercise, in the least degree. It is perfectly obvious that, to tolerate such power, is to convert the two Houses of Congress, so far as the privileges of members are concerned, into bodies clothed with legislative, judicial, and executive functions, without limit or restraint. And these "high" powers are to be exercised by men composing the two Houses, in behalf of themselves. Thus they, in effect, become judges in their own cause. All this is at war with the essence of our institutions; and, but for some precedents to be found in our past history, it would be difficult for a republican to comprehend how it was possible that either House of Congress should so far forget the principles of justice, and of the Constitution, as to assume the powers of legislator, judge, juryman, and executioner, for the benefit of its

members. There is no excuse for it, but the inconsiderate and blind imitation of the example of the British Houses of Parliament. The formation of the Constitution, and the limitations therein prescribed to the extent of privilege, at once abolished the authority of British precedents; and it should be a source of lasting regret, with every republican, that either House of Congress should, at any time, have gone so far as to invade the province of the judiciary, by attempting to inflict punishment upon the citizen for a breach of "privilege." The case of Anderson, charged with violating the privileges of members, by offering a bribe, and of the editor of the Aurora, summoned to appear before the Senate to answer for an offensive publication, are the unfortunate precedents to which I refer, and which I do, most sincerely, hope may never be followed hereafter. Why, sir, if these cases are to be followed, I might move the House to send for Webb, of the Courier and Enquirer, and Bennett, of the Herald, and have the question settled between them, whether Webb did charge the Kentucky delegation, one and all, with bribery, at the rate of $100,000 per vote, for the repeal of the bankrupt act; or whether Bennett, as Webb charges, lied outright in making the statement. If Bennett propagated the calumnious falsehood, without authority, he is legally guilty of slander, and might be punished. Where would such a doctrine as this lead us, and where would it end?

Although the Constitution expressly excepts cases of "treason, felony, and breaches of the peace," from the operation of "privilege," yet the opinions now advanced, and heretofore practised upon, vindicate the propriety of taking hold of a member and proceeding to try him for any of these offences, upon the ground that it is matter of "privilege" either to the accused or to his fellow members. It cannot be the "privilege" of the accused under the Constitution, for that instrument declares, in such cases, he shall have no "privilege." How is it matter of "privilege" to my fellow members, that I am guilty of "treason, felony, or a breach of the peace?" It is impossible that my guilt, which deprives me of "privilege," and subjects me to arrest, should confer upon them privileges not specified or enumerated in the Constitution. For "treason, felony, or breach of the peace," I am, at all times, liable to arrest and trial before the judicial tribunals. Shall this House detain me from the civil magistrate, until my guilt is here pronounced by censure or expulsion, and then hand me over, with my case prejudged and prejudiced by the decision? What authority have you to withhold any of your members from the sheriff or marshal who has a warrant to arrest for treason or felony? If you can keep him a day or an hour, and put the officer and his process at defiance, what prevents you from refusing to surrender the accused member altogether? If you can detain him until you have tried him, may you not after trial, especially should you find him guiltless, detain him months and years? And, should you thus proceed, what becomes of the constitutional provision which allows immediate arrest in cases of treason and felony? It is clear that you violate the Constitution, should you refuse for a moment to obey the process of the civil magistrate. If no warrant is taken out for the apprehension of the accused, does that give you authority to proceed? Certainly not. Your jurisdiction is perfect, or you have it not to any extent. If you have jurisdiction at all, and you commence the trial of a member, you should proceed to the termination of it. Now, it is very clear that you have no right to resist the process of the civil magistrate, and would be bound by the Constitution, in the midst of such a trial as we are now conducting against the gentleman from Massachusetts, to surrender the accused, or to allow his arrest? Your liability to be thus interrupted in your proceedings and defeated in your jurisdiction, proves that you have no right in the beginning to commence the trial.

Gentlemen may contend that the effect of my doctrine is, that however base a member may be, or however atrocious the crimes he may have committed, he would be allowed to retain his seat as a fit associate of the members of this House. My opinions and doctrines lead to no such result. On the contrary, if there be among us a traitor or a felon, any one member of this House may become his accuser, appeal to the civil magistrate, take out a warrant, have him arrested, and turn him over to the judiciary. If found guilty, the gallows or penitentiary would relieve us from his contaminating presence. If acquitted, I doubt very much whether this House ought to readjudicate the case, with a view to censure, or to expel, or to inflict any other punishment. The spirit of that constitutional provision which declares that no person shall, for the "same offence, be put twice in jeopardy of life or limb," and the plea of *autrefois acquit*, should be respected here as well as in the courts of the judiciary.

There is great impropriety in either House running ahead of the judiciary in affixing a stigma, by censure or expulsion, upon any one of its members accused of crime. We all know how easy it is to excite clamor and prejudice, and thereby to prevent a fair and impartial trial. Shall the Houses of Congress so far forget their own dignity, and the principles of justice, as to initiate proceedings which may eventuate in the sacrifice of innocent lives? Suppose I commit homicide, my defence before a jury of my peers is, that I did it in self-defence. It is impossible to say what influence my expulsion from this Hall might have upon the minds of my triers. It is certain, that so far as it operated, it would be most pernicious, and might cost me my life. I have not looked into the proceedings of the Senate in the case of Senator Smith, but I should be very reluctant to follow the precedent, if it assumes the right to run ahead of the judicial tribunals.

[Here Mr. Adams was understood to say, that the case of Smith and the proceedings of the

Senate established no such principle. He said that Smith had been indicted by a grand jury as an accomplice of Burr, which indictment had been dismissed after Burr's discharge; that Burr was acquitted upon a special verdict, which did not relieve his character from moral guilt.]

I am glad to hear the fact stated, said Mr. UNDERWOOD, by the gentleman from Massachusetts. It presents the case of Smith in a new light to my mind. It is the case of an acquittal upon technical grounds by the judicial tribunal, leaving the moral guilt of the accused as the foundation of the proceedings against him by his fellow members. I am happy to learn that the Senate did not take up the case of Smith until the courts of law were done with it.

It seems to me that the entire doctrine of the advocates of "privilege" is radically erroneous; and no part of the doctrine is more objectionable, in my estimation, than that which assumes the power to inquire into the moral character and conduct of a member on this floor, and to hold him responsible to his fellow members. The decalogue denounces Sabbath breaking and covetousness. Shall my fellow members try me for these sins, or any other? Suppose they do try and expel me, and my constituents should think proper to send me back again, will my re-election purify my character and make me a fit associate for those who had a few months before expelled me? After my re-election, shall I retain a seat, or must I submit to a second expulsion, and so on without end? You have nothing to do with my moral character and conduct. For these I am responsible to my constituents, and if I am not so vile, in their estimation, as to be rejected by them, it is your duty to transact their business with me. A business association will no more contaminate your morals or your persons, than a professional association between lawyer and client, physician and patient, will communicate crime and disease to him who is employed to defend or to heal. Sir, the age is becoming "righteous overmuch." We are squeamishly sensitive on the subject of legislative purity, or affect to be so. I am afraid, sir, that the Impartial Judge will say to us, "ye strain at gnats and swallow camels." If a member in his motives and his actions does not come up exactly to the moral standard which the majority of this House may be disposed to erect, will it not be better to leave him to his constituents, rather than undertake to stretch him by our chastisements? Where is your constitutional warrant to make a code of morals, and then to establish an inquisitorial court to ascertain who violates your code, and how to punish the offender? In my opinion, we are transcending the Constitution, and trampling upon the rights of members and the rights of the people, in making the attempt.

I object, then, to the want of power in this House to try the gentleman from Massachusetts. I object for another reason. If the House has the power to try and to punish the member from Massachusetts, what punishment should it inflict? If he be guilty of treason or subornation of perjury, it is worse than "bathos" to reprimand him only. If the charges are true, expulsion is too mild a punishment. Fine and imprisonment are infinitely too mild. If the ex-President be a traitor, *hanging* is the proper punishment.

[Here Mr. MARSHALL again denied, in the most emphatic manner, as he had done the day before, that there was any such charge made against Mr. ADAMS.]

I know, said Mr. UNDERWOOD, that my colleague's preamble and resolutions do not, in so many words, charge the overt act of treason; but his preamble, in substance, affirms, that a proposition to dissolve the Union necessarily implies the destruction of the Constitution and the overthrow of the Republic, "involving necessarily, in its execution and its consequences, the destruction of our country and the crime of high treason." The gentleman from Massachusetts has presented such a proposition, not as his own, but for the petitioners. My colleague's first resolution calls this act an "indignity" to the House, and an "insult" to the people of the United States; and his second resolution declares, among other things, that the "wound which he (the accused) has permitted to be aimed, through his instrumentality, at the Constitution and existence of his country, might well be held to merit expulsion from the national councils." Now, put this and that together, and what does it mean? Sir, in the last resolution, the gentleman from Massachusetts is charged with conduct—or "instrumentality"—which inflicts a "wound" or aims a blow at the Constitution and existence of the country, by presenting the proposition of others; and in the preamble we are told what is to be implied by a "proposition" to dissolve the organic laws—in other words, to dissolve the Union. No inference can be drawn from all this, unless it be that the gentleman from Massachusetts is in heart and soul a traitor, and the willing tool, in the hands of traitors, to "overthrow the American Republic." These imputations are cloaked in sonorous words and well-turned periods, which do not go directly to their object, but circumambulate with caution, and do the thing as effectually in the end as if they had been reduced to a single pointed sentence, declaring that John Q. Adams gave aid and countenance to a traitorous movement. My colleague's resolutions do not breathe a word—no, not a letter—about the declaration or motion of the gentleman from Massachusetts, which accompanied the presentation of the petition. The motion which he made, to have the petition referred to a select committee, with instructions to report an answer, showing the reasons why the prayer ought not to be granted, is not hinted at, either in my colleague's resolutions, or in the original resolution of the gentleman from Virginia, (Mr. GILMER.) The gentleman from Massachusetts, by that motion, discountenanced and condemned the petition at the moment he presented it; and yet, sir, this important fact is suppressed or not noticed in the resolutions proposing to censure him!

This proceeding is at war with other constitutional principles, which ought ever to be held sacred. The Constitution declares that no *ex post facto* law shall be passed, and that cruel and *unusual* punishments shall not be inflicted. These prohibitions were intended to prevent Congress from making, by subsequent legislation, that action a crime, which was not denounced as such by the laws in force at the time of its performance; and to secure notice, beforehand, of the nature and extent of punishment which should be inflicted for conduct made criminal by law. All punishment is "cruel and unusual" which is imposed by retroactive legislation. Now, sir, what are we doing? We are engaged in an attempt to punish the gentleman from Massachusetts for an action not made criminal by any former law; and we are invoked to inflict a punishment which neither he, nor any one else, was ever notified should be the consequence of his conduct.

I am thoroughly convinced that we have no *privileges*, as members, which cannot be better protected by the judiciary than by Congress itself. It is high time that the nation should look to the abuses which grow out of the attempt to exercise the jurisdiction now attempted, and to examine the extravagant and latitudinous pretensions of the advocates of congressional "privilege." The question of "privilege" is entirely distinct from the power expressly granted in the Constitution to punish and expel members for disorderly behavior. It is the imperative duty of each House by its rules to prescribe punishments for every species of disorder, and to define, with precision, those offences for which a member shall be expelled. I have heretofore called the attention of this House to the importance of doing this, but I have in vain urged the necessity of action. Until the House adopts some code defining offences, and prescribing punishments, and the mode of trial, we shall be agitated and troubled by abortive efforts to punish, which, instead of preserving our dignity, are themselves the causes of increased disorder, and tend to bring upon this body a weight of public odium which must eventually sink it. The attempt to try Mr. Graves and the seconds in the fatal duel, cost the nation more than $40,000. How many days we shall spend depleting the public purse at the rate of more than $2,000 per day, in the trial of the ex-President, time must determine. The loss of money is nothing compared with the loss of reputation.*

What has the gentleman from Massachusetts done to insult or contemn this House, for which he should be punished? He did nothing more than I have witnessed here a thousand times without the least excitement. He offered a petition and moved its reference to a select committee, with instructions to report against the prayer of the petitioners. That is all he did. He used no indecorous language. He said nothing abusive of any one. He violated no rule of order. For what, then, is he to be tried? Why, sir, for nothing; unless it be the *motives* and *feelings* under which he acted in presenting the petition. I ask, sir, in sober earnestness, if his triers are not arrogating to themselves the powers of Almighty God, in undertaking to judge his *motives* and *feelings*, and to find guilt in these, when his conduct is not criminal? In ordinary prosecutions we infer the turpitude of motive and feeling from the criminality of action; but in this case, the action being innocent, being nothing more than the presentation of a petition, we try the motive in order to establish the guilt of the accused. And how do we get at his motives? Why, sir, it is done by identifying him with the petitioners. My colleague's resolutions and preamble intimate, pretty clearly, that the petitioners invite us to commit treason and perjury, for which they are morally guilty; and their guilt attaches to the gentleman from Massachusetts, because he became their instrument in presenting the petition. Such is the process of reasoning by which to fix a guilty or base motive upon the gentleman from Massachusetts; and this is persisted in, notwithstanding the gentleman's declaration, constituting a part of the *res gesto*, that he wished the committee instructed to report against it! My colleague is a lawyer. Does he consider himself identified with his clients, and responsible for all the untruths, false statements, and perjuries, which may have been perpetrated in the bills and answers, declarations and pleas, which he, for them, may have presented to court in the course of his practice? God forbid that I should be held responsible, either in this world or the next, for the actions or motives of those whom it has been my fortune to represent in the judicial tribunals of the country. I know it is a vulgar prejudice to identify client and lawyer, and to denounce both; but I have never known the good sense of any people appealed to in vain. Temporary excitements, fanned by demagogues, may lead them astray for a while; but, in the end, they distinguish between the client and the attorney, and perceive and discountenance the injustice of attaching the guilt of the one to the character of the other. Does not a similar distinction exist between the representative and the constituent? May not the representative offer to the legislative body any and every petition which the constituent places in his hands, without thereby identifying himself in motive, feeling, and action, with the constituent? May he not present the petition when he is directly opposed to every motive and feeling which actuates the petitioner? Suppose the petition from Haverhill had been placed in my hands, with a request that I should present it; suppose I had stated to the House that I had such a petition; that it was the first of the kind I ever heard of; that I was not sure but the petitioners were guilty of crime in preparing such a paper; and that, under such circumstances, not knowing

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* The trial of Mr. ADAMS, to the exclusion of all other business, commenced on the 25th of January, and terminated on the 7th of February, when the whole proceedings were laid on the table without deciding a single point. The expenses of the House, during the time thus wasted, exceeded $26,000.

well what to do, I had determined to present it to the House, and ask its reference to a select committee, with instructions to inquire and report what measures ought to be taken; would any man dare rise and charge me, under such circumstances, with treasonable motives, or as aiding and abetting those who invite members of Congress to commit perjury? And yet, sir, the supposed case is less favorable than the actual case before us; for, in the supposed case, I have left the committee at liberty to foster and sustain the petition; whereas, the gentleman from Massachusetts, by his instructions, took away all discretion, except as to the number and nature of the reasons to be assigned against the prayer of the petition. Sir, it does seem to me that the attempt to punish the gentleman from Massachusetts, under the facts of the case, is a direct assault upon the liberty of speech, and the liberty of the representative in the discharge of what he regards official duty. In this view, the whole proceeding is an outrage upon the first principles of constitutional liberty.

It is well known to all, who have served with the gentleman from Massachusetts as long as I have, that his doctrine on the "right of petition" is *ultra* in the extreme. I have thought, and still think, that he is in an error on the subject. Some years since, I made fruitless efforts to obtain the floor, with a view to deliver my sentiments and opinions on the subject of the right of petition; and especially the *right* of the people of the States to petition for the abolition of slavery in the District of Columbia. Not getting an opportunity to make a speech here, I deemed it a duty to present my opinions, and the reasons in support of them, to my constituents; and did so, through the columns of the National Intelligencer. My letter may be found in that paper, under the date of 13th May, 1840. I endeavored to demonstrate that the "*right of petition*" was not unlimited; that it was not coextensive with the liberty of speech. I have heard the gentleman from Massachusetts contend that the only limitation to the right of petition consisted in offensive, insulting terms. I have heard him admit that this House was not bound to receive petitions couched in offensive, insulting language. If no such language justified their rejection, then his doctrine has always been, since I knew him, that Congress ought to receive and act upon the petitions which any portion of the people might think proper to send. Sir, in offering the petition from Haverhill, the gentleman from Massachusetts has acted in conformity with principles which he has avowed for years. His practice on former occasions has made a strong impression upon my mind, of the sincerity and pertinacity with which he adheres to what I regard an error. Surely members have not forgotten the efforts heretofore made to censure the gentleman from Massachusetts for manifesting a willingness to present a petition for his own expulsion, coming from free negroes or slaves. The other day, he presented a petition for his own degradation as chairman of the Committee on Foreign Affairs. He once presented a petition from a man who asked of Congress the privilege of building a house, without showing what obstructions were in his way, or how the action of Congress would relieve his embarrassments. With a knowledge of these facts, I was not surprised that the gentleman presented the Haverhill petition. Sir, he could not have refused, and preserve his consistency. And the cause for astonishment is not that *he* offered the petition, but it is that *we*, to preserve our *privileges*, should undertake to punish him for performing what he regards a conscientious duty!

I can perceive no foundation on which to charge the accused with offering an insult or contempt to the House. The intention or motive is indispensible to constitute an insult or contempt; and if you cannot reach the motive, and the action does not necessarily show the motive, then there is no foundation on which to presume an insult or contempt, and no one ought to suppose that either was offered, without proof. In our schoolboy days, we have all read the fable of the lamb and the wolf, who was insulted because the lamb crossed or drank in the stream below. I trust, sir, there is not such deep-rooted hostility between the accused and any portion of the members of this House, that any pretext will be regarded sufficient to justify his immolation. The gentleman from Massachusetts has been the most active member in presenting abolition petitions for many years. He may have created some personal dislike towards himself, by his course in that respect; but all must acknowledge, however offensive such petitions are to many of us, the gentleman has uniformly declared that he offered them under a sense of duty, although he would not vote according to the wishes of the petitioners.

For years past, Congress and the nation have been embroiled in the worst feelings in relation to the "right of petition," especially that class of petitions praying for the abolition of slavery in this District. The course pursued by this House has aggravated instead of allaying the evil. The proper remedy is, to take up the subject deliberately and calmly, and to define the "right of petition." Let us examine with a view to ascertain what constitutes the right; how to be exercised by the people; and how its exercise should be treated by the deliberative assembly addressed. Instead of doing this, the remedy heretofore applied has been to arrest and prevent discussion. When an offensive petition is presented, we either lay it, or the question of reception, upon the table without debate; and, in regard to the class of petitions named, we exclude them from consideration by the operation of the 21st rule. We thus attempt to keep down unpleasant discussions. But does not every body see that the fire is not extinguished by these attempts to smother it. Children cannot stay the eruptions of Vesuvius, or smother its internal fires, by tossing their toys into the crater; nor can legislators arrest public discussion on any subject, in this free country, by rules which exclude debate from their halls. Sir, we assume more consequence than we

deserve, if we think that all the sense, all the talent, and all the information of the country are concentrated in our State and national legislative assemblies. I admit they furnish the larger portion of the *printed speeches* published for public use. But these are but a drop to the ocean compared with the *oral speeches*, public and private, from the stump, the pulpit, and the debating clubs and societies, which disseminate thought and scatter knowledge from Maine to Louisiana, from the Atlantic to the Rocky mountains. I leave out of the computation the discussions going on in the columns of newspapers, in tracts, in pamphlets, and in books, compared with which the debates here are but little more than a mite to the universe. In view of these things, I do not hesitate to affirm that there is not the least danger to result from allowing the most unlimited range of discussion on this floor upon any and all subjects. If our debates convince the public judgment, we may induce the people to act with energy in executing any plan to promote their interest; but, unless we convince the judgment of the people, they will remain passive and unmoved by all we say. Indeed, sir, our angry debates and personal vituperation have no other effect upon the great masses of the American people than to excite their indignation against ourselves. They attribute these vindictive personalities to the true cause—the workings of an unholy ambition in the bosoms of those who are not worthy of seats here. The fruits of such a principle are—calumny, to disgrace a rival; puffs and praises, to elevate a worthless idol; an avidity to make political capital out of every thing which promises the least personal advancement; and a recklessness of consequences which is felt almost exclusively in this country by those who live from the trade of politics. Sir, the people cannot fail to see these things. Every year is making them more palpable. Every breeze now comes loaded with the hissings of public indignation. There is much more danger that the people will justify some Cromwell or Napoleon for marching us, at the point of the bayonet, into the Potomac, for the character of our debates, than that we shall be able to excite them to civil war, and to acts of outrage upon each other. I therefore say, in regard to all those rules denominated "gag-laws," away with them. I have always voted against the 21st rule. That rule settles no principle; it violates the right of the people of this District and of Florida to petition Congress on the subject of slavery. These people have an undoubted right to petition this body to abolish slavery within their respective Territories; and yet the rule deprives them of their right of petition, for the purpose of excluding petitions from the people of the States. The rule does not discriminate between those who have the right and those who have not. Neither does the rule silence discussion on the subject of abolition movements. Why, sir, what have we just witnessed? The gentleman from Virginia, (Mr. WISE,) during a two-days' speech, talked of little else than abolition. He read paper after paper to exhibit their principles and plans, and to prove, in the event of a war with Great Britain, that it was contemplated to arm the slaves of the South, to put them under British protection, and to employ them in the butchery of their masters.

[Here Mr. WISE interrupted M. U. and begged him to do Mr. W. the justice to say that he did all in his power, in every form, to keep off the discussion. After it began and he was attacked personally, he was obliged to discuss the subject; and he hoped the gentleman from Kentucky would not blame him for doing what he was compelled to do against his own will.]

I have not censured the gentleman, continued Mr. U.; far from it. I am condemning the 21st rule; and I adverted to the gentleman's course to prove how utterly useless the rule was. I wish Congress to repeal that rule and define the right of petition. I have attempted to do that in the letter to my constituents, already referred to. My physical strength would fail before I could go through all the arguments and illustrations contained in that letter. It is accessible to those who may feel any inclination to look into it. I will only tax the patience of the House by stating a few leading principles, which lie at the foundation of the right, and show that it is subject to several salutary restrictions.

First, I contend that no one has a right to petition a legislative body, unless the body petitioned has the power to grant the prayer of the petition. It is a sound maxim in law and morals, that a vain and nugatory thing ought not to be tolerated. To consume time in debating impossibilities is ridiculous. It is the first duty of every legislative assembly to know the extent of its powers; and whenever a petition is presented which the body has no power to grant, it is a proper exercise of legislative discretion to reject, without receiving it. In such cases, however, good policy and courtesy toward the petitioner require that he should be informed why his petition was not received. This very Haverhill petition should be rejected under this rule. The right to revolutionise the existing Government, when it becomes an engine of oppression—a right asserted by our ancestors in the Declaration of Independence—does not warrant or sanction a petition asking us to devise means for the peaceable dissolution of the Union; because we are not clothed by the Constitution with power to dissolve the Union, and because it is made our imperative duty, enjoined by oath, to support the Constitution, which Constitution binds the States by every ligament into the closest union. To attempt, therefore, to comply with the wishes of the petitioners would be an unconstitutional act. It would be preposterous and degrading to us, as a body, that we should gravely deliberate upon a proposal which we have no constitutional power to execute.

I shall therefore vote against the reception of the petition from Haverhill, and, in doing so, carry into opertion one of the limitations upon the right of petition.

Secondly, I contend that no one has a right to petition for the passage or repeal of laws which do not operate upon himself; that no one can be grieved or feel a "grievance," in the constitutional sense of that term, by the existence or non-existence of a law which, when in force, operates upon others and not upon himself. Under this rule, I deny the right of the people of the States to petition for the abolition of slavery in this District. In doing so, they are, in my opinion, pharasaical intermeddlers in the domestic affairs of those whose local institutions should not be controlled, and cannot be controlled, by the views and feelings of distant men and women, without establishing a despotism. Under this rule, I have always voted against the reception of abolition petitions from the people of the States. But it has always been my wish, when such petitions have been rejected, to assign the reason and to state the principles upon which it is done, believing that such a course would be politic, and tend to allay excitement. If the existence of slavery in the District of Columbia operates upon a man living five hundred miles distant, so far as he is affected by it, he has a right to petition; but if it did not affect or touch his life, liberty, or property, then he had no more right to petition concerning it than the man in England or Russia. I deny that a man has a right to petition against every thing that afflicts his conscience or excites his compassion. I deny that the right of petition can be used to propagate this or that system of morals or religion. It is an abuse of the right to attempt to use it for any such purpose; and, if tolerated as an instrument to indoctrinate the people or their representatives with sectional or sectarian ideas, instead of being a blessing, it will prove one of the greatest curses to this country. The abolitionist seizes what he is pleased to denominate the sin of slavery, and preaches, through his petition, on that topic. So may every man and woman, boy and girl, in the United States, take up some real or imaginary sin, prevailing in this District, (and not to a greater extent here than elsewhere,) and send us long and tedious homilies as to the duty and obligation we are under, and the means proper, to correct what the petitioner may consider an evil. If the "right of petition" is without limit, then, sir, may Turk, Jew, Pagan, Infidel, and Christian, each, petition Congress for the establishment of that code, for the government of the people of this District which conforms to his peculiar notions, and we shall have little else to do than to listen to the interminable lectures of fanatics, visionaries and sectarians, telling us how to experiment upon the mice in the exhausted receiver. It is one of the faults of our nature to be very fond of talking about and meddling with the affairs of other people. Now, sir, I am for suppressing this garrulous, intermeddling spirit as far as I can. I think sound morals and religion require that it should be rebuked. And therefore I say to those who reside in the States, that slavery in this District is a local and not a national question—it is no more national than is the same institution in the States—and hence they have no right to interfere, and should leave the question to the people of the District.

My physical strength will not enable me to go through all the arguments on the subject. I must content myself with a reference to the letter to my constituents. In my judgment, we shall never have peace and quiet on this subject, until Congress adopt the true principles which should govern, and present them to the people. The people are a reflecting, considerate, honest mass, and will do right in the end. They are capable of perceiving the truth, if the subject is fairly and honestly argued on both sides. Instead of making the effort to give them true principles, we refuse to discuss. We apply a "gag rule," which violates every principle connected with the right of petition. Thus it is we keep alive eternal agitations. I know there are men here who desire to keep them up. Some are actuated by one motive, and some by another, but all concurring to distract the public peace, from one end of the continent to the other. This member desires to make political capital out of abolition and abolition petitions: he wishes to secure his election by it. That member believes it will ultimately lead to the emancipation of the slave, not only in the District, but in all the States; and he, to secure that end, does all in his power to keep alive this fire-brand of strife. And here is a disunionist, who thinks the discord and hatred which result from abolition will bring about the severance of the States, and the establishment of two or more distinct independent nations out of the fragments of the dissevered confederacy. These, and perhaps many others, are the causes of the prevailing agitation. Sir, they may continue to work until destruction is the consequence, unless we can apply a proper remedy. Can you pacify these raging elements by the 21st rule? Did you ever know the promptings of personal interest, the delusions of fanaticism, the schemings of ambition, or the dreadful realities of national dismemberment and civil war, averted or suppressed by the promulgation of such a mandate as the 21st rule?—a mandate which cannot be enforced beyond the limits of this Hall, and which, within it, fails in its design, and only aggravates the feelings it was intended to extirpate. Sir, as a Representative from a slaveholding State, I desire nothing so ardently as that the Representatives of the non-slaveholding States should take up the subjects of the right of petition and of slavery, and debate them to the fullest extent. Let them talk about the institution of slavery in the Southern States until they have poured out all their waters of bitterness or of benevolence: I do not fear the consequences. When they do it, I shall be prepared to show that, even if the condition of the South, in a moral and political aspect, is worse than that of the North, we are not to blame

for it; that we are not justly chargeable with the censure of the world for the existence of an institution entailed upon us by the colonial policy of Great Britain, over which we and our ancestors had no control, and which was entirely independent of, if not adverse to, the wishes of our fathers. What! reproach us for an institution forced upon our fathers by the policy of a foreign Government, and then reproach us because we will not consent to place the African slave upon an equality with ourselves! Let the discussion come. The South is the weaker party. After the next apportionment, the non-slaveholding States, at a ratio of 68,000, will have a majority of 52 members on this floor, instead of their present majority of 44. Relatively, their strength will increase after every census, during the existence of the Republic. They have the power now; and, having it, I wish them to declare openly and frankly how they intend to use it. I wish to understand them fully on the all-important question of slavery, and I wish my constituents to understand them. Away with your 21st rule, then, and let them speak!

I know one thing, Mr. Speaker. The State that you and I in part represent has a deeper interest in the preservation of this Union, connected with the subject of slavery, than any other State, except Missouri, Maryland, and Virginia. I have heard Southern gentlemen on this floor, time after time, advance sentiments favorable to the dissolution of the Union, as the most effectual remedy to protect the institution of slavery, and their rights in slave property. Sir, it is a monstrous, a fatal mistake of the South to entertain such ideas. And why? Because, just so soon as the bonds of this Union are dissolved, just as soon as Mason and Dixon's line and the Ohio river become the boundary between two independent nations, slavery ceases in all the border States. How could we retain our slaves, when they, in one hour, one day, or a week at furthest, could pass the boundary, and place themselves upon the territory of a nation which would make it a boast, that, as soon as a slave touched its soil, "he was redeemed, regenerated, and disenthralled from the chains which bound him?" If now our slaves escape into Canada and write insulting letters to their former masters, what would they not do, if, instead of having to travel hundreds of miles to reach the land where they cannot be arrested, we, by dissolving the Union, bring that land so near them that a single step, a mile, or a night's journey, will enable hundreds and thousands of them to place their feet upon it? Sir, it is too obvious to require argument or illustration, that to dissolve the Union is to dissolve the bonds of slavery in all the border States. And do you think, sir, it would stop there? Do you not see that sooner or later this process would extend itself farther and farther South, rendering slave labor so precarious and uncertain that it could not be depended upon; and consequently a slave would become almost worthless; and thus the institution itself would gradually, but certainly, perish. Flee a slave as soon as he touches the north bank of the Ohio, and what condition do you impose upon the Kentucky slaveholder? You instantly make him the mean and crouching slave of his slave. Instead of giving orders as a master, he must beg and beseech as a menial. You make him feel and know that, whenever his language excites the resentment of the slave, the best horse is stolen, and in twenty-four or forty-eight hours the horse and the rider are across the river. To chastise the slave for negligencies or crimes, would induce him instantly to run away, with the certainty that, in a few hours or a few days, he would be beyond the reach of pursuit. Dissolve the Union to preserve the institution of slavery! Why, sir, just as soon as that is done, I, for one, shall say to my slaves, "pack up, and I will help you across the Ohio. I know that you can get across at any time within twenty-four hours; that fact cannot be concealed from you, and you will depart whenever the least rebuke offends you; go, therefore, to those who claim to be your friends, for I know if you stay I become your slave." What will slave labor be worth in Kentucky, under such circumstances? Sir, it will not only be worthless, but a ruinous burden. Those capable of labor, the active and intelligent, will run away and become free, leaving decrepid age and helpless infancy to remain and eat up the substance of the master. I therefore say, sir, that when this state of things arrives, by the dissolution of the Union, I, for one, will help my slaves to cross the Ohio. If it be the purpose and object of the abolitionists to bring about that state of things, and they succeed, I will send to them all the slaves I own, and persuade my neighbors to do likewise; they shall have the blessing or the curse of social, civil, and political equality with the negro; but as for me and mine, we will endeavor to preserve the Anglo-Saxon blood uncontaminated by the dingy currents of amalgamation.

The Constitution, as it now stands, on the subject of slavery, is the only safeguard to the institution. Northern abolitionists know it; and hence they have commenced petitioning Congress to change that feature of the Constitution which binds them to restore fugitive slaves. Well, sir, I admit their right to petition for a change of the Constitution, for that is a law which operates upon them. Such petitions are as different from the Haverhill petition, which has involved us in this discussion, as a proposition to reshingle or stop the cracks in an old house is from one to put fire to and burn it up. But this Haverhill petition may proceed from those who at heart would rejoice to see the Union dissolved, because slavery in the States would fall with the Union. The petitioners may have adopted the Southern remedy for the preservation of the institution of slavery as the means of its destruction. Strange that men should differ so widely on a practical question, that the thing which one side considers sanative and conservative, should by the other be regarded

as poisonous and destructive, and thus, from different motives, both be induced to put it in practice. Yet such seems to me to be the tendency of *Southern* as well as *Northern* fanaticism.

I, sir, am anxious to preserve both sections of the country from this fatal, horrible doctrine of disunion. I believe there is enough good sense among the mass of the people, both North and South, to avert the dreadful calamities which must inevitably follow the dissolution of the Union. The mass of the people are now passionately fond of the Union, and I trust they may remain so to the end of time. There is no danger, if they are left to their own calm, honest, and dispassionate reflection. The only danger arises from the sinister, selfish, ill-digested schemes of sectional, religious, or political agitators. In an unguarded moment, if the mass of the people allow their passions to be fanned into a flame, there is danger that a whirlwind of fury and madness may desolate the fairest fields of hope and happiness, which have been spread before the nations of earth by our system of government. These reckless agitators, on all sides, will find that those who raise the storm are, when it comes, deficient in those physical and mental powers necessary to control and direct it. The incendiary who applies the torch neither has disposition nor means to extinguish the consuming fury of the flame. The glory of saving the building invariably belongs to another. The glory of remodelling society and of reconstructing government, after the present systems shall have tumbled into ruins, will not encircle the brows of the Erostratuses who now struggle in the race for immortality and fame. Think not, agitators, you who shelter yourselves behind popular sectional battlements, such as the right of petition, which you refuse or fail to define; or the institution of slavery, which you affect to consider too sacred or too dangerous to discuss; that, when the hurricane sweeps the earth, you will stand,

> "Strong as the rock of the ocean that stems
> A thousand wild waves on the shore."

No; ye will be scattered as the chaff, and remembered only as faggots consumed by the fires of your own kindling.

The Republic is safe as long as the mass of the people give no heed to such agitators. The people of the United States have acted together under bonds of union, and the most endearing social ties, notwithstanding the existence of slavery, ever since and even before the formation of the Articles of Confederation, in the year 1778, down to the present time. They have passed through two wars with the most powerful nation of the globe. They have found in past time every inducement to hang together as one nation and one people. A common language; a common origin; the ties of consanguinity; the delights of social intercourse; the advantages of a free and unrestricted internal trade, exchanging the productions of every variety of climate and soil, and administering to the comfort and happiness of all; the growing strength of the nation, in population, in military and naval means and defences, by which we, as one people, are rendered more secure against foreign aggression; these, and a thousand other considerations, forcibly address themselves to the common sense of the people, and urge them to rally around the standard of their Union, if they would continue prosperous and happy, as they have heretofore been. Can the people of the Republic ever forget the glorious associations of the past? Our fathers have cemented and consecrated our Union by pouring out their blood into one common reservoir. Our revolutionary battles were fought by one army, composed of soldiers from all the States; and who commanded that army? A Virginian and a slaveholder. Can the people of the free States forget these things, break up the Union, and excite the slaves to a servile war? I make a personal appeal to Illinois and Indiana. George Rogers Clark, my grandfather's nephew, conquered Kaskaskia and Vincennes, and sent Governor Hamilton, by his fellow soldier, my maternal uncle, John Rogers, a prisoner to the city of Richmond. The operations of Clark and his handful of men, which in history seem more the tale of romance than reality, gave us, in the treaty of 1783, the lakes, instead of the Ohio, as our boundary. Clark and his soldiers were Virginians. I appeal to Ohio. My maternal uncle, whose name I bear, Joseph Rogers, lost his life on the plains of Piqua. I have poured out my own blood, fighting the battles of a common country, upon your soil. Can you forget these things? Can you destroy the Union? Can you excite a servile war? And should the time come when the beautiful stream which separates our States is red with the blood which its Kentucky tributaries throw into the channel; when the southern breeze wafts to your ears the shrieks of women and children, and the midnight sky is purple with the reflected light of our burning habitations; can you fold your arms with indifference, obliterate the memory of the past, when we were comparatively strong and you were weak, and coldly tell us, "we are a divided people and we leave you to your doom?" ["Never." "Never," was the reply from different parts of the Hall. Mr. U. continued.] I know it is impossible to forget the past; and that assures us of the future in all times of trial and difficulty. God will not permit alienation and separation to take place. We have not yet become mad. We are not yet given up by Him to destruction. And I thank those gentlemen of the North most heartily who have declared around me that they will "never," "never," "separate from the South." And I do most sincerely hope that, if the forty-six Haverhill petitioners have been actuated by serious motives in addressing their petition to this House, they are the only persons in Massachusetts, who could entertain thoughts so fatal to the peace and welfare of this great nation. Although their petition does not

amount to treason, it leads and invites to it, and involves all the horrible consequences of servile and civil war. The personal appeal I have made is far weaker than that which thousands of others, living in the slaveholding States, might make to their Northern brethren. But weak and insignificant as it is, it is big enough to show the nature of those ties and associations which must be dear to the hearts of the people in every part of our republican empire.

I cannot dismiss this part of the subject without a word to the abolitionists on this floor. If I understand their creed, nothing will satisfy them short of the emancipation of our slaves, and placing them upon a legal footing of perfect equality with their masters, in respect to all social, moral, civil, and political rights. I appeal to the gentleman before me [Mr. GIDDINGS] and ask, if I have correctly laid down their doctrine?

[Mr. GIDDINGS, of Ohio, said it gave him great pleasure to respond to the feelings which the honorable member had expressed. To all those sentiments he had uttered he responded from his inmost heart. He would also say that he was an abolitionist to the full extent in which he understood that term. That he had conversed with hundreds, and perhaps he might say thousands, but he had never heard one intimate any intention or wish to interfere, politically, with the institution of slavery in Kentucky or any other State. They claim no such right nor do they ask any such privilege. Gentlemen might consider him as speaking *ex cathedra* if they choose. He would then say that all imputations and charges of their desire to do so were, so far as he was informed, *unfounded*. On the contrary, they ask to be relieved from such interference and taxation for the support of slavery. They ask that it should not interfere with them. Let us cease to appropriate the money of the free States for the support of slavery. Let Congress cease to involve the free States in the disgrace or support of that institution, and they (the abolitionists) will be satisfied as to political action. He would stand by Kentucky as long as she had or would stand by Ohio.]

Mr. UNDERWOOD continued. I am happy to hear the gentleman say that he will stand by Kentucky—that he will lend a helping hand in any emergency. There was, however, in the concluding remarks of the gentleman some things advanced which he did not thoroughly explain. What did he mean when he said the abolitionists wished to be relieved from "interference and taxation for the support of slavery." The time may come—I hope never to see it, but it may come—when my Northern brethren would have to defray a portion of the expenses of suppressing servile insurrections, and to be taxed for that purpose. They may not only be taxed, but required to march too. Now, sir, I should like to know whether it is the object of the abolitionists to be delivered from this march and these taxes? The gentleman shakes his head and seems to say, "No." I hope he may be permitted to explain. I wish to understand the true design and whole scope of the abolition movement.

[Cries of "Let him explain," Now," "Now."

The Speaker said it would require universal consent.

Mr. CHAPMAN objected.

Mr. UNDERWOOD thought the House had better let the gentleman explain. (Cries of "now," "now," "no objection is made.")

Mr. CHAPMAN withdrew his objection.

Mr. GIDDINGS took the floor and was about proceeding, when

Mr. J. CAMPBELL renewed the objection.]

Mr. UNDERWOOD resumed. I will then go on and bring my remarks to a close. I have understood the gentleman from Ohio as denying any intention, on the part of abolitionists, to refuse the payment of taxes or to decline rendering military services when necessary. As I understand him he is willing to abide by the Constitution. If so, when hereafter he explains his views more fully, it is possible that I may find less to offend than I have heretofore invariably connected with the term "abolition." I have never been governed by names. Things, deeds, actions, are all that I regard. If the gentleman from Ohio and his great State will only stand by me and by Kentucky, in action, according to the principles of the Constitution, it is all I desire or ask.

But it was my purpose, in addressing the abolitionists on this floor, to say to them, if it be your intention to place the negro upon the same platform with the white man, to destroy the social barriers which now separate the two races, and to make them rivals for popular favor and political distinction; if, in a word, it be your purpose to bring about "amalgamation," you are attempting an impossibility. Never, as long as this world stands, can or will the free whites of the South consent or submit to any such thing. If that be your object and you intend to agitate and alarm until you accomplish it, then are we engaged in a death-struggle. It may be our fate to perish. You and those whom you may treat as allies, may have the power to exterminate us for ought I know; but history tells us, that after millions of treasure and myriads of lives were sacrificed by the crusades of fanaticism, the banner of Mahomet still waved over the Holy Land.

Mr. Speaker, the South may submit to a separation of the two races. Thousands in the South are willing to aid in separating and colonizing, who will perish in the last ditch fighting against emancipation and amalgamation. My opinions on this head have been often declared and frequently published.

But, sir, I must quit abolition, and return to the prosecution against the gentleman from Massachusetts. The people of this country, in adopting our glorious Constitution, have wisely sanc-

tioned the principle that members of Congress should not be brought in question elsewhere than on this floor for any thing said in debate. So far as is necessary to preserve order, I admit tha this House has jurisdiction over the speeches and words uttered by its members; and its jurisdiction to that extent is exclusive of the judiciary. But when I concede we have power to punish for indecorous and disorderly remarks, I by no means admit that we have authority to punish a member for his moral, religious, or political opinions or actions. That provision of the Constitution was adopted with a view to secure unbounded liberty of speech and action to the representatives of the people in the performance of their legislative duties. They were to speak boldly, and not be afraid. Now, sir, does it not frustrate the whole object of the Constitution, in this respect, if we take cognizance of a member's moral, religious, or political speeches, or the propositions and motions he may deem a duty to make, and which create no disorder? Suppose a member declares in his place that he does not believe in the doctrines of the soul's immortality, of a state of rewards and punishments beyond the grave, and of a revealed religion; suppose he declares openly, what possibly some may think, and yet conceal, that this world is man's only portion, and his chief glory to rise to the summit of political power; what would you say, sir, if I were to rise to a question of order and "privilege," take down the member's words, offer a resolution of censure, and tell him he "might well be held to merit expulsion from the national councils" for avowing sentiments "involving," in their consequences, the destruction of every virtue, and the commission of every crime; that the maintenance of the purity and dignity of the House, and its members, required their severest censure; and, after that, he ought to be turned over to his own conscience and the indignation of all men? I rather think, Mr. Speaker, in such a case, if you did your duty, you would say to me, "You are calling in question the gentleman's religious belief, or rather you propose to censure him because he has no religion. The first article of the amendments to the Constitution declares, 'That Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof,' by which the entire subject of the citizen's religious opinions, faith, and practice, is excluded expressly from the pale of our constitutional powers. We cannot legislate on the subject, and therefore we cannot punish, either for entertaining this or that religious creed, or opposing all religion. It is not a question of 'privilege,' and certainly you are not *privileged* to censure the member because he has no religion, any more than he has a right to censure you for your religion. You are out of order, by interrupting the regular business of the House by moving such a proposition." Such ought to be your rebuke to me, Mr. Speaker, in the case supposed; and when, in the same article, the Constitution declares that Congress shall make no law "abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble and to petition the Government for a redress of grievances," I did think that a proposition to censure a member for a speech of a dozen words, in the presentation of a petition, was such a direct and palpable violation of the constitutional "freedom of speech," that you, Mr. Speaker, would have united with me in rebuking the gentleman from Virginia, (Mr. GILMER,) by deciding that his resolution of censure was not a question of "*privilege*," and by declaring him out of order. But here we are gravely discussing the right and the power to punish the ex-President for presenting a petition, and moving to condemn it! What a glorious thing it is that the Constitution defined treason, declaring that it should consist in overt acts; that it should "consist only in levying war against the United States, or in adhering to their enemies, giving them aid and comfort." Were it not for this salutary definition, I do not know but we should convict the gentleman from Massachusetts of constructive treason; and in that event, instead of censure or expulsion, we might leap over another salutary constitutional provision, under the influence of excited feelings, and pass a bill of attainder, corrupt his blood, and confiscate his estates!

I call on gentlemen from the South to pause and reflect what they are doing. Already have you excited much feeling by the adoption of the 21st rule. What may you not do by assuming the prerogatives of omniscience, judging the motives of a member and declaring them base in the face of his protestations to the contrary, and then punishing, not for any crime, made so by *law*, but for that which you choose to make such by the *ex post facto resolutions* of this House—one branch of the legislative body. Beware, I pray you, how you sacrifice and make a martyr of the gentleman from Massachusetts, who has told you over and over again that he is no abolitionist; that he is no disunionist; but that he is in favor of the right of petition in its greatest latitude. Will such a course bring peace and repose? Will it heal the dissensions which prevail? Beware how you make a martyr to the right of petition! The gentleman from Massachusetts will go home and say to his constituents, that he has always considered the right of petition coextensive with the liberty of speech; that he has always, under a sense of duty, presented every petition sent him drawn up in decorous language, and for doing so, he has been punished by Southern men and Southern votes. What reply would his constituents make? Might they not say "for such treatment at the hands of these men, it is our will that no other representative of ours shall ever associate with them." Sir, there is danger that the course which the excited feelings of the House may induce it to take, will increase the number of these forty-six Haverhill petitioners a thousand fold. I beg gentlemen to pause. From the bottom of my soul, I believe nothing good can come out of the passage of the resolutions of my colleague, or

that for which his are offered as a substitute. I believe the whole proceeding is unconstitutional, arbitrary, and will, if carried out, be productive of bitter fruits. Let us put it aside; let us take up the business of the people, and devote ourselves assiduously to the discharge of our proper legislative duties. Let us promote and protect every interest by the passage of just laws; and let this be done calmly, yet firmly, in good temper and without personalities. By such a course we shall demonstrate the inestimable value of the Union, and receive the plaudits of a grateful people.


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